

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

ERIC M. ALBRITTON §  
§  
§  
§  
v. § C. A. NO. 6:08-CV-00089  
§  
CISCO SYSTEMS, INC., §  
and RICK FRENKEL §

**CISCO SYSTEM INC.'S MOTION TO DESIGNATE NEXT DAY TRIAL WITNESSES**

TO THE HONORABLE COURT:

Cisco Systems, Inc. ("Cisco" or Defendant") moves the court to require all parties to designate their next day witnesses at the trial of the above-referenced case as follows:

1.1 This case is set for trial on September 14, 2009. The Plaintiff has listed fifteen (15) witnesses that he will call "live or via video tape deposition." Exhibit G to Amended Pretrial Order. He has listed an additional eighteen witnesses he "may call." *Id.* In order to more efficiently prepare for trial and for an orderly presentation of the evidence, Cisco requests that the court order Plaintiff to disclose his witnesses for the following day not later than 5:00 p.m. on the day prior to that witnesses' testimony. With respect to the first day of trial, Cisco requests that it be notified of the Plaintiff's first day witnesses not later than 5:00 p.m. on September 11, 2009.

1.2 Cisco and co-defendant Rick Frenkel are willing to be bound by the same procedure.

WHEREFORE PREMISES CONSIDERED, Cisco prays that this motion be granted and that it be awarded such relief as to which it is entitled.

Respectfully submitted,

JACKSON WALKER L.L.P.

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ATTORNEYS FOR DEFENDANT  
CISCO SYSTEMS, INC.

## **CERTIFICATE OF CONFERENCE**

At a pretrial conference before the Honorable Magistrate Judge Don Bush on September 1, 2009, the undersigned brought up the above referenced matter and was informed that this was an issue for the district judge to rule upon. The undersigned asked opposing counsel Nick Patton and James Holmes at the September 1 hearing whether they would agree to this motion and they said they would consider it and let defendant know. On September 3, 2009, the undersigned sent an e-mail asking whether Mr. Patton, Mr. Holmes or Mr. McWilliams (Frenkel's counsel) would oppose the motion and indicated an intention to file this motion on Friday September 4, 2009. Mr. McWilliams responded that he was unopposed. On September 4, 2009, shortly before filing this motion the undersigned spoke with Mr. Holmes and said that he would check with the other members of the trial team and determine whether the motion was opposed. Cisco has heard nothing further from Plaintiff's counsel, as of the date and time of this filing, and therefore presumes that they are opposed.

Certified this 4<sup>th</sup> day of September, 2009.

*/s/ Charles L. Babcock* \_\_\_\_\_

Charles L. Babcock

**CERTIFICATE OF SERVICE**

This is to certify that on this 4<sup>th</sup> day of September, 2009, a true and correct copy of the foregoing was served upon:

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/s/ Charles L. Babcock

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